

Senate Engrossed House Bill

**FILED**

**MICHELE REAGAN  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 318  
HOUSE BILL 2161**

AN ACT

AMENDING SECTION 23-901.01, ARIZONA REVISED STATUTES; RELATING TO WORKERS'  
COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 23-901.01, Arizona Revised Statutes, is amended to read:

23-901.01. Occupational disease; proximate causation; definitions

A. The occupational diseases as defined by section 23-901, paragraph 13, subdivision (c) shall be deemed to arise out of the employment only if all of the following six requirements exist:

1. There is a direct causal connection between the conditions under which the work is performed and the occupational disease.

2. The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.

3. The disease can be fairly traced to the employment as the proximate cause.

4. The disease does not come from a hazard to which workers would have been equally exposed outside of the employment.

5. The disease is incidental to the character of the business and not independent of the relation of employer and employee.

6. The disease after its contraction appears to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence, although it need not have been foreseen or expected.

B. Notwithstanding subsection A of this section and section 23-1043.01: —

1. Any disease, infirmity or impairment of a firefighter's or peace officer's health that is caused by brain, bladder, rectal or colon cancer, lymphoma, leukemia or ~~aden carcinoma~~ ADENOCARCINOMA or mesothelioma of the respiratory tract and that results in disability or death is presumed to be an occupational disease as defined in section 23-901, paragraph 13, subdivision (c) and is deemed to arise out of employment.

2. ANY DISEASE, INFIRMITY OR IMPAIRMENT OF A FIREFIGHTER'S HEALTH THAT IS CAUSED BY BUCCAL CAVITY AND PHARYNX, ESOPHAGUS, LARGE INTESTINE, LUNG, KIDNEY, PROSTATE, SKIN, STOMACH OR TESTICULAR CANCER OR NON-HODGKIN'S LYMPHOMA, MULTIPLE MYELOMA OR MALIGNANT MELANOMA AND THAT RESULTS IN DISABILITY OR DEATH IS PRESUMED TO BE AN OCCUPATIONAL DISEASE AS DEFINED IN SECTION 23-901, PARAGRAPH 13, SUBDIVISION (c) AND IS DEEMED TO ARISE OUT OF EMPLOYMENT.

C. The ~~presumption is~~ PRESUMPTIONS PROVIDED IN SUBSECTION B OF THIS SECTION ARE granted if all of the following apply:

1. The firefighter or peace officer passed a physical examination before employment and the examination did not indicate evidence of cancer.

2. The firefighter or peace officer was assigned to hazardous duty for at least five years.

1        3. The firefighter or peace officer was exposed to a known  
2 carcinogen as defined by the international agency for research on cancer  
3 and informed the department of this exposure, and the carcinogen is  
4 reasonably related to the cancer.

5        4. FOR THE PRESUMPTION PROVIDED IN SUBSECTION B, PARAGRAPH 2 OF  
6 THIS SECTION, THE FIREFIGHTER RECEIVED A PHYSICAL EXAMINATION THAT IS  
7 REASONABLY ALIGNED WITH THE NATIONAL FIRE PROTECTION ASSOCIATION STANDARD  
8 ON COMPREHENSIVE OCCUPATIONAL MEDICAL PROGRAM FOR FIRE DEPARTMENTS  
9 (NFPA 1582).

10       ~~C.~~ D. Subsection B of this section applies to former firefighters  
11 ~~and~~ OR peace officers who are sixty-five years of age or younger AND WHO  
12 ARE DIAGNOSED WITH A CANCER THAT IS LISTED IN SUBSECTION B OF THIS SECTION  
13 NOT MORE THAN FIFTEEN YEARS AFTER THE FIREFIGHTER'S OR PEACE OFFICER'S  
14 LAST DATE OF EMPLOYMENT AS A FIREFIGHTER OR PEACE OFFICER.

15       ~~D.~~ E. Subsection B of this section does not apply to cancers of  
16 the respiratory tract if ~~the firefighter or peace officer has smoked~~  
17 ~~tobacco products~~ THERE IS EVIDENCE THAT THE FIREFIGHTER'S OR PEACE  
18 OFFICER'S EXPOSURE TO CIGARETTES OR TOBACCO PRODUCTS OUTSIDE OF THE SCOPE  
19 OF THE FIREFIGHTER'S OR PEACE OFFICER'S OFFICIAL DUTIES IS A SUBSTANTIAL  
20 CONTRIBUTING CAUSE IN THE DEVELOPMENT OF THE CANCER.

21       F. THE PRESUMPTIONS PROVIDED IN SUBSECTION B OF THIS SECTION MAY BE  
22 REBUTTED BY A PREPONDERANCE OF THE EVIDENCE THAT THERE IS A SPECIFIC CAUSE  
23 OF THE CANCER OTHER THAN AN OCCUPATIONAL EXPOSURE TO A CARCINOGEN AS  
24 DEFINED BY THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER.

25       ~~E.~~ G. For the purposes of this section:

26       1. "Firefighter" means a full-time firefighter who was regularly  
27 assigned to hazardous duty.

28       2. "Peace officer" means a full-time peace officer who was  
29 regularly assigned to hazardous duty as a part of a special operations,  
30 special weapons and tactics, explosive ordinance disposal or hazardous  
31 materials response unit.

APPROVED BY THE GOVERNOR MAY 22, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2017.

Passed the House February 21, 20 17

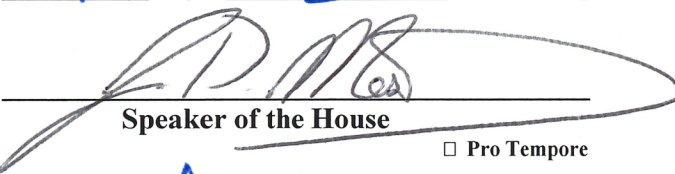
Passed the Senate May 4, 20 17

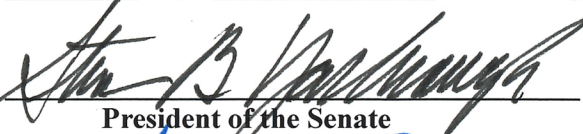
by the following vote: 54 Ayes,

by the following vote: 27 Ayes,

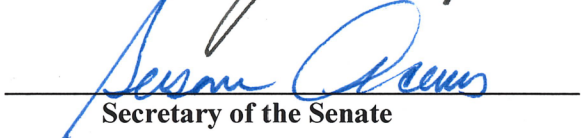
4 Nays, 2 Not Voting

3 Nays, 0 Not Voting

  
Speaker of the House  
☐ Pro Tempore

  
President of the Senate

  
Chief Clerk of the House

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

H.B. 2161

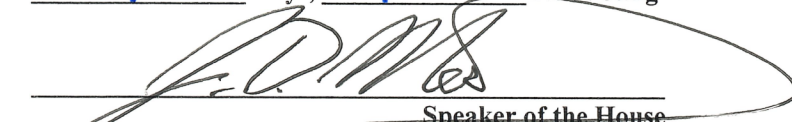
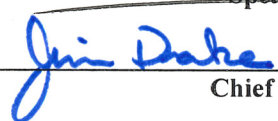
\_\_\_\_\_  
Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 4, 20 17,

by the following vote: 52 Ayes,

7 Nays, 1 Not Voting

  
\_\_\_\_\_  
Speaker of the House  
  
\_\_\_\_\_  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8<sup>th</sup> day of May, 20 17,

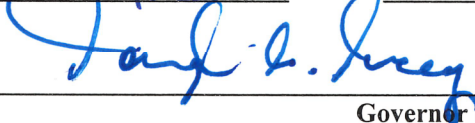
at 8:30 o'clock A. M.

  
\_\_\_\_\_  
Secretary to the Governor

Approved this 22<sup>nd</sup> day of

May, 20 17,

at 4:50 o'clock P. M.

  
\_\_\_\_\_  
Governor of Arizona

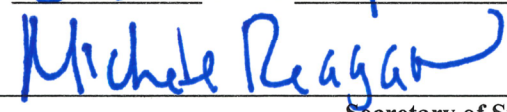
H.B. 2161

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 20 17,

at 6:34 o'clock P M.

  
\_\_\_\_\_  
Secretary of State